

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN RE:)
)
RANDY'S METAL RECYCLING, INC.) CASE NO. 15-30142
) CHAPTER 11
)
)
Debtor)

**UNITED STATES TRUSTEE'S LIMITED OBJECTION TO DEBTOR'S MOTION FOR
AUTHORITY TO SELL SUBSTANTIALLY ALL ASSETS**

NANCY J. GARGULA, United States Trustee ("U.S. Trustee"), by Ellen L. Triebold,
Trial Attorney, pursuant to 28 U.S.C. § 586(a) and 11 U.S.C. § 363, respectfully files this
Limited Objection to Debtor's Motion for Authority to Sell Substantially All Assets
("Objection"), and in support thereof, states:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334, 151, 157,
and N.D. Ind. L.R. 200-1. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).
Venue in this Court is proper under 28 U.S.C. § 1409(a).
2. The U.S. Trustee monitors the administration of cases under Chapters 7, 11, 12 and
13 of the Bankruptcy Code pursuant to 28 U.S.C. § 586(a)(3) and has standing under
§ 307 to raise, appear, and be heard on any issue in any bankruptcy case or
proceeding.
3. On January 30, 2015, voluntary Chapter 11 petitions, Schedules, Statement of
Financial Affairs, and related bankruptcy documents were filed by five Debtors:
Gertrude Street Metal Recycling, Inc., case no. 15-30141; Randy's Metal Recycling,
Inc., case no. 15-30142; Going Green Metal Recycling, Inc., case no. 15-30143; NRJ

Real Estate, LLC, case no. 15-30144; and Randy's Territorial, LLC, case no. 15-30145 ("the five Debtors").

4. Also on January 30, 2015, the five Debtors filed Motions for Substantive Consolidation, seeking to substantively consolidate the assets and liabilities of all five Debtors.
5. The U.S. Trustee has objected to the Motions for Substantive Consolidation on the basis that it is not clear at this early stage of the Chapter 11 process that substantive consolidation is appropriate or that its benefits outweigh its harm.
6. On February 3, 2015, the five Debtors filed in each case a Motion for Authority to:
(1) Sell Substantially All the Assets of Randy's Metal Recycling, Inc., Gertrude Street Metal Recycling, Inc., Going Green Metal Recycling, Inc., NJR Real Estate, LLC, and Randy's Territorial, LLC Free and Clear of All Liens, Claims, Interests and Encumbrances; (2) Assume and Assign Certain Leases and Contracts; and (3) Waive Fourteen Day Stay of Sale ("Sale Motions").
7. On February 3, 2015, the five Debtors filed in each case a Motion to Establish Bidding Procedures for the Sale of Substantially All the Assets of Debtors Randy's Metal Recycling, Inc., Gertrude Street Recycling, Inc., Going Green Metal Recycling, Inc., NJR Real Estate, LLC, and Randy's Territorial, LLC, and Establishing Auction and Hearing Dates ("Bidding Motions").
8. By Notices dated February 3, 2015, the deadline to object to the Sale Motions and the Bidding Motions of the five Debtors is February 26, 2015.
9. The Asset Purchase Agreement ("APA") attached to the Sale Motions proposes the sale of substantially all the assets of the five Debtors to a Buyer to be formed by Louis Padnos Iron and Metal Company. The Sellers include the five Debtors, as well

as Indiana Metal Processing Group, Inc., a non-Debtor company that appears to own some of the five Debtors, and Randall C. Schlipp, the President of the five Debtors and partial owner of some of the five Debtors.¹ The APA further provides for an employment agreement between the Buyer and Mr. Schlipp as well as funds paid for a Noncompetition Agreement between them.

10. The total assets of the five Debtors from their Schedules A and B on the Summary of Schedules forms is approximately \$3,032,380, an amount more than the initial proposed purchase price of \$2,915,000. This amount excludes the \$100,000 to be paid directly to Mr. Schlipp for the Noncompetition Agreement and amounts paid for inventory. It appears from the APA that a value of zero has been placed on the Sellers' intangibles and goodwill.

11. According to the five Debtors' Statements of Financial Affairs, Question 1, the five Debtors report "earnings on consolidated financial statements and tax returns with several other entities" and total receipts for 2014 of \$8,564,898.00. It is unclear at this point what is meant by "several other entities."² Moreover, the 2014 receipts amount exceeds the 2013 receipts amount by more than \$4 million dollars. As the APA contemplates the sale of assets as a going concern, more information is needed regarding the going concern value(s) of the five Debtors and non-Debtor sellers.

¹ The ownership of the five Debtors and the non-Debtor Seller is not entirely clear at this point. For example, Going Green Metal Recycling, Inc., 15-30143, lists Indiana Metal Processing Group, Inc. as its 100% owner on Question 21 of the Statement of Financial Affairs but lists Randall Schlipp and Gale Rue as each 50% owners on its List of Equity Holders.

² For example, the five Debtors all list on Question 18 of their Statement of Financial Affairs an interest in "G&R Property Development LLC" which appears to be an operating company. Query whether this is one of the "several other entities."

12. According to Sale Motions, the secured claims of First Source Bank, the U.S. Small Business Administration, and the U.S. Internal Revenue Service exceed \$6 million dollars.
13. At this point, it is unclear whether the proposed sale will result in any equity for the bankruptcy estate and its creditors and whether it is in the best interests of the bankruptcy estate in these cases.
14. At the very least, creditors and parties in interest should have a full and fair opportunity to evaluate the Sale Motions and the Bidding Motions, including, but not limited to, being able to evaluate the propriety of the proposed stalking horse bid; the proposed break-up fee; the marketing of the five Debtors to potential buyers; the advertising of the proposed auction; the proposed waiver of the stay of sale; the value of the assets and companies; the relationships among the five Debtors, the non-Debtor Seller, and the Seller-Principal/Insider; and the propriety of the other proposed sale and bidding terms.
15. The U.S. Trustee is in the process of soliciting interest in creditors' committees in these cases pursuant to her duties under § 1102.
16. The Meetings of Creditors under § 341 are currently set for March 9, 2015, in these five cases.
17. The U.S. Trustee files this limited objection to the Sale Motions and Bidding Motions because, at this point, and without further information, the U.S. Trustee, creditors, and parties in interest cannot evaluate whether the proposed sale and/or proposed bidding procedures are in the best interests of the creditors and the bankruptcy estate.
18. The U.S. Trustee requests that any hearing on the objections in these five cases be set for a date after the Meeting of Creditors on March 9, 2015, to allow creditors and

parties in interest to question the Debtors and hopefully obtain more information about the proposals.

WHEREFORE, the United States Trustee respectfully objects to the Motion for Authority to: (1) Sell Substantially All the Assets of Randy's Metal Recycling, Inc., Gertrude Street Metal Recycling, Inc., Going Green Metal Recycling, Inc., NJR Real Estate, LLC, and Randy's Territorial, LLC Free and Clear of All Liens, Claims, Interests and Encumbrances; (2) Assume and Assign Certain Leases and Contracts; and (3) Waive Fourteen Day Stay of Sale; requests that it be denied as filed; requests a hearing if necessary; and requests all other proper relief.

Respectfully submitted,

NANCY J. GARGULA
UNITED STATES TRUSTEE

By: /s/ Ellen L. Triebold
Trial Attorney

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served electronically through the Bankruptcy Clerk's ECF System or by First Class United States Mail this February 13, 2015 upon the following parties:

R. William Jonas, Jr.
Hammerschmidt, Amaral & Jonas
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_/_s/ Ellen L. Triebold _____

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